

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

STANLEY PACE, an individual :  
Plaintiff, :  
v. : Case No. 4:17-cv-00518  
CONSTELLATION BRANDS, INC., :  
A Delaware Corporation, and its wholly:  
owned subsidiary RUFFINO S.r.L. :  
Defendant. :

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DECLARATION OF SANDRO SARTOR

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I, Sandro Sartor, declare as follows:

1. I am an officer of and the Director of defendant Ruffino S.r.L., a limited liability company of Italy, and have served in that capacity since 2011. Everything set forth herein is within my personal knowledge and/or based upon my review of corporate records and is true and correct.

2. Ruffino S.r.L. (“Ruffino”) is a wholly owned subsidiary of Constellation Brands, Inc. (“CBI”) (collectively “Applicants”). Ruffino is the owner of, *inter alia*, the following trademark registrations all for the “Ruffino” trademark:

<u>Country</u>	<u>Mark</u>	<u>Reg. No.</u>	<u>Goods/Int. Class</u>	<u>Reg. Date</u>
United States	RUFFINO	0537668	Wines	2/13/1951
Italy	RUFFINO	110393 Ren. 1466323	29, 30, 32, 33	6/27/1953
International/WIPO	RUFFINO	167416	29, 30, 32, 33	2/7/1953

AT, BG, BX, BY, CH, CZ, DE, DZ, EG, FR, HR, HU, IE, KZ, LT, LV, MA, MC, MK, PL, PT, RO, RS, RU, SI, SK				
European Community	RUFFINO	10799849	33	9/11/2012 Filed 4/11/12
Canada	RUFFINO	TMA238126	33	12/14/1979
United Kingdom	RUFFINO	709282	33	7/28/1952
Australia	RUFFINO	204325	33	8/16/1966
Mexico	RUFFINO	89044	33	5/24/1957
Argentina	RUFFINO	2889074	33	12/9/2004
Brazil	RUFFINO	812214692	33	9/22/1987
Colombia	RUFFINO	162281	33	6/27/1994
Hong Kong	RUFFINO	19883408	33	10/27/1988
Taiwan	RUFFINO	518501	33	4/1/1991
Thailand	RUFFINO	RTM158673	33	2/11/1992
South Africa	RUFFINO	1973/04988	33	9/24/1973
Indonesia	RUFFINO	IDM000052013	33	9/30/2005
Kenya	RUFFINO	13245	33	7/16/1965
Bahrain	RUFFINO	3R6402	33	4/15/2006
Denmark	RUFFINO	VR196201707	33	9/15/1962

The parent company, CBI, is the registered owner of the domain name “ruffino.com” (“Domain Name”). CBI has been the registered owner of the Domain Name since October of 2012, which

Domain Name resolves to the website for Ruffino's wine business. Prior to October 2012, and since at least as early as 1998, the Domain Name was registered to Ruffino. The Domain Name has continuously served as an active website for Ruffino's wine business since at least as early as 1998.

3. Ruffino Winery was founded in Italy in 1877. Sales of Ruffino brand wines have been continuous since inception. Ruffino wines won their first, of many, gold medals at the 1881 Milan Wine Exhibition. Sales of Ruffino brand wine in the United States have been continuous since 1933. Ruffino offers a large variety of exceptional wines, including by way of example, Ruffino's world renowned Chianti, Brunello di Montalcino, Nobile di Montepulciano, and Pinot Grigio, amongst others. All of these wines bear the "Ruffino" mark. The Ruffino winery maintains a well-known and popular Tasting Room and Visitor Center. A Ruffino Tasting Room has been in existence since at least as early as 1978. Ruffino brand wines are sold throughout the United States and the world, through all legal channels of trade, including, without limitation, wine and liquor stores, restaurants, bars, taverns, grocery stores, and through e-commerce where permitted by law. Ruffino wines have received numerous accolades and are consistently rated among the top echelon of Tuscan wines.

4. Regarding Ruffino's market share in the United States, within the Ultra-Premium Segment (\$11.00-\$14.99/bottle), Ruffino has been the #2 largest brand by dollar sales with an extraordinary market dollar share of 8.1% and a unit share of 9%. Ruffino wines are sold in over 85 countries covering five (5) continents. Over the past few fiscal years, annual wholesale sales of Ruffino brand wines have averaged in excess of € 93 million per year with well over 2.1 million cases (9 liter) of wine sold per year. Accordingly, Ruffino is one of the most famous and most recognizable wine brands in the United States and around the world.

5. Applicants have legitimate interests in the Ruffino mark and the Ruffino name and have priority in each instance over Pace. Applicants' United States trademark registration is incontestable pursuant to 15 U.S.C. § 1065.

6. According to Pace's *First Amended Complaint* (Dkt. 4), he purchased the domain name "rufino.com" ("Infringing Domain") in 2012, which is well after Applicants registered the Ruffino mark in the United States and internationally and well after Applicants obtained the Domain Name. The difference in the Domain Name and Infringing Domain is the deletion of an "f" that is not noticeable, is easily overlooked or confused by users and consumers, and appears to be nothing more than an intentional typo registered by Pace. The only other difference in the Ruffino mark and the Infringing Domain is the addition of the generic top level domain ".com." The Infringing Domain and the Ruffino mark are confusingly similar in look, sound, meaning and commercial impression. Because of the use of the Ruffino mark in the Infringing Domain, consumers are likely to believe Pace's website at the Infringing Domain is owned by or somehow sponsored by, licensed by, or otherwise associated with one or both of Applicants. In fact, the website at the Infringing Domain has a search bar where a user may insert, for example, the term "wine" and be directed to various links for alcoholic beverages including Ruffino wines and many of its competitors.

7. The Ruffino mark and name have achieved a high level of distinctiveness and fame by continuous use for 140 years, and sales in the multiple millions of dollars/euros. By virtue of the registrations of the Ruffino mark, registration of the Domain Name, and long use of the Ruffino trademark, service mark, and trade name on and in association with wine and winery services (including, without limitation wine tasting room/wine bar services), Applicants own exclusive rights in and to the Ruffino mark and name for said goods and related goods and services. Applicants have valid, superior, and prior rights in and to the Ruffino mark and trade name. The Infringing Domain is confusingly similar and nearly identical to the Ruffino trademark, service mark, trade name, and the Domain Name. As a result, consumers are likely to be confused, mistaken or deceived that Pace is Ruffino, or that the Infringing Domain has its origin or source with Applicants, or is somehow approved, sponsored by, affiliated with, connected with, or associated with Applicants.

8. Pace's name bears no similarity whatsoever to the domain name at issue, which implies that Pace is not commonly known by the Infringing Domain and is no way associated with the Ruffino mark and/or trade name. Based on Applicants' investigation, Pace has no legal or bona fide commercial purpose or reason for use of the Infringing Domain. Pace has never owned a trademark registration for "RUFINO" and has never used the term "RUFINO" as a trade name or been incorporated anywhere under said name. The Infringing Domain serves no purpose other than to attract users to Pace's holding site by the use of a name confusingly similar to the Ruffino mark, the Ruffino trade name, and the Domain Name. Pace's ownership and use of the Infringing Domain is disrupting Applicants' business by having unsuspecting potential customers land on the Infringing Domain with content that takes them somewhere other than the Domain Name and associated website.

9. The Infringing Domain and associated website is a parked website. The infringing website is comprised solely of sponsored links and a search bar to additional sponsored links. Pace is not engaged in a bona fide offering of goods or services or a legitimate noncommercial or fair use of the Infringing Domain on the infringing website. In fact, the Infringing Domain and associated website uses links and a search bar to divert customers from the Infringing Domain and associated website to sponsored advertising including sponsored alcoholic beverage advertising. Applicants are not affiliated with Pace and have not licensed or otherwise authorized Pace to register or use the Infringing Domain and/or the Ruffino mark. In fact, when clicking on "rufino.com," the website, at times, opens to a virus and ransomware demand. Obviously, this behavior causes great concern for Applicants, because it can only tarnish Applicants' reputation that it has built over the last 140 years.

10. The Infringing Domain is virtually identical to the Domain Name and Ruffino mark. Applicants' extensive sales, advertising, promotional activity, and high quality of their products, has resulted in substantial and favorable United States and worldwide recognition and acceptance of Ruffino and its products and services by both the public and the trade. Given the fame of the Ruffino mark and name and the nearly identical term at issue, it is highly likely that

Pace was consciously aware of the Ruffino mark and name at the time he registered the Infringing Domain. If Pace was not aware of the Ruffino mark and the Domain Name, he should have been aware of the same as they were published for the world to see.

11. As set forth above, the only difference in the Infringing Domain and the Ruffino mark and Domain Name is the deletion of an “f,” which is not generally noticeable, is easily overlooked or confused by consumers, and appears to be nothing more than an intentional typo. As Pace indicated in his *First Amended Complaint*, he owns over 10,000 domain names. He is no stranger to a dispute of this kind. In fact, in at least twenty-one (21) UDRP domain cases, Pace was ordered to transfer the infringing domain names to their rightful owners. Pace is a repeat infringer and targets famous and well-known marks, including by use of typos and other confusingly similar variations of registered marks just like he has done here. Examples of Pace’s prior registrations that were transferred to their rightful owners are [www.findmyipad.com](http://www.findmyipad.com) (Apple), [www.shoedazzle.com](http://www.shoedazzle.com), ([Shoedazzle.com](http://Shoedazzle.com)), [www.statepharm.com](http://www.statepharm.com) (State Farm), [www.sonyentertainment.com](http://www.sonyentertainment.com) (Sony), [www.baylor.org](http://www.baylor.org) (Baylor University), and [www.neuimmarcus.com](http://www.neuimmarcus.com) (Neiman Marcus). Pace’s actions are calculated and clearly in bad faith.

12. On June 6, 2017, Applicants filed a *Complaint in accordance with the Uniform Domain Name Dispute Resolution Policy* (“UDRP Complaint”) with the FORUM in accordance with the UDRP. Pace filed a response to the UDRP Complaint and actively participated in the proceeding. After reviewing all of the submissions and evidence, on July 20, 2017, a panel of three neutral arbitrators unanimously granted the relief sought by Applicants and ordered “that the <rufino.com> domain name be **TRANSFERRED** from [Pace] to [Applicants].” In addition to finding that the Infringing Domain should be transferred to Applicants, the panel of neutral arbitrators unanimously determined that Pace acted in “bad faith” in registering the Infringing Domain.

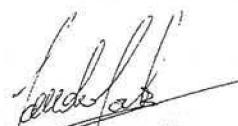
13. Despite a ruling that clearly requires that Infringing Domain be transferred to Applicants, Pace has made it known that the Infringing Domain is for sale. Specifically, in

Paragraph 29 of Pace's *First Amended Complaint* he states “[Pace] has never sold, transferred, or trafficked in the domain. Nor has [Pace] at any time specifically offered to sell the domain name to [Applicants], though the domain name, along with thousands of other domain names registered by [Pace] is available for sale.” The above “offer to sell” assertion is incorrect as Pace has attempted to sell the domain name to Applicants for a substantial sum. Additionally, when at the Infringing Domain, I was able to click on “Buy this domain.” When doing so, I was routed to “sedo.com” where an offer can be made to purchase the domain. According to “Sedo.com,” fifteen (15) bids have been made to purchase the Infringing Domain and two (2) counter-offers from Pace have been made, at least one of which is very recent. A true and correct copy of the website as of October 17, 2017 is attached hereto and incorporated herein by reference as Exhibit A. *See Exhibit A.* Further, on October 18, 2017, pursuant to a Trademark Complaint form filed by Applicants with Sedo.com, ruffino.com now states “[s]ervices for this domain have been discontinued” and “rufino.com “ is not currently listed for sale on Sedo.com. Given Pace's active attempts to sell the domain during the pendency of this action, Applicant's do not believe that the referenced complaint with Sedo.com will not stop Pace from selling to a third party or from stop him from placing offers for sale with another service, or stop Sedo.com's sales agent services from being reinstated. A true and correct copy of the website as of October 18, 2017 is attached hereto and incorporated herein by reference as Exhibit B. *See Exhibit B.* It is unknown where Pace is currently seeking to sell the Infringing Domain or if Sedo.com will reinstate services.

14. If Pace and his officers, agents, servants, employees, attorneys, and Sedo.com, LLC are not restrained and enjoined from selling, and/or transferring the domain name “rufino.com” now or at any time during the pendency of this litigation, then Applicants will be irreparably harmed. If the Infringing Domain is transferred, licensed, or sold to a party related to Pace or a third-party, Applicants will be forced to take additional steps to protect the Ruffino mark and brand including litigation. Such actions will cause irreparable harm to Applicants.

At the time of executing this declaration I am physically located outside the geographic boundaries of the United States and any territory or insular possession subject to the jurisdiction of the United States. I hereby declare under penalty and perjury under the laws of the United States of America, and pursuant to 28 U.S. Code §1746, that the foregoing is true and correct.

Executed on the NOVEMBER 2<sup>nd</sup>, 2017.

  
**RUFFINO s.r.l.**  
P.le I.L. Ruffino, 1 - 50065 Pontassieve (FI)  
C.F. e P. IVA: 02067051207

S Domain assistance at your fingertips! Sedo.com, LLC [US] Bid Thread Details Change Password

sedo Buy, Park, Sell, Domains

Your Keyword:  TLD:

Hi SEDO John Watchlist

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**My Domains**  
Update sales settings, negotiate offers and add domains to your account.

**Buyer Control Panel Keyword Watchlist**

**Bid Thread for rufino.com**

Date	Bidding	Offer
04/12/17	Desired Price:	
04/12/17	Your Offer:	500 USD
10/07/17	Seller's Counter Offer:	94,000 USD

[Information about the Seller](#)  
[How long is this bid binding?](#)

You have the following options:

**Option A: Confirm Offer - Purchase Domain**  
Purchase this domain at the agreed upon price: 94,000 USD

**Option B: Make Offer**

Always secure with Sedo

11:17 AM 10/19/2017

S Domain assistance at your fingertips! Sedo.com, LLC [US] Bid Thread Details Change Password

Purchase this domain at the agreed upon price: 94,000 USD

**Option B: Make Offer**

If the offer is too high, you can make a counter offer. Please note that your offer is binding! [?](#)

Your Offer:  USD

If you wish, you can add a comment to your offer. Use the quick comment to automatically send a comment to the other party.  
[Why can I not select all the comments?](#)

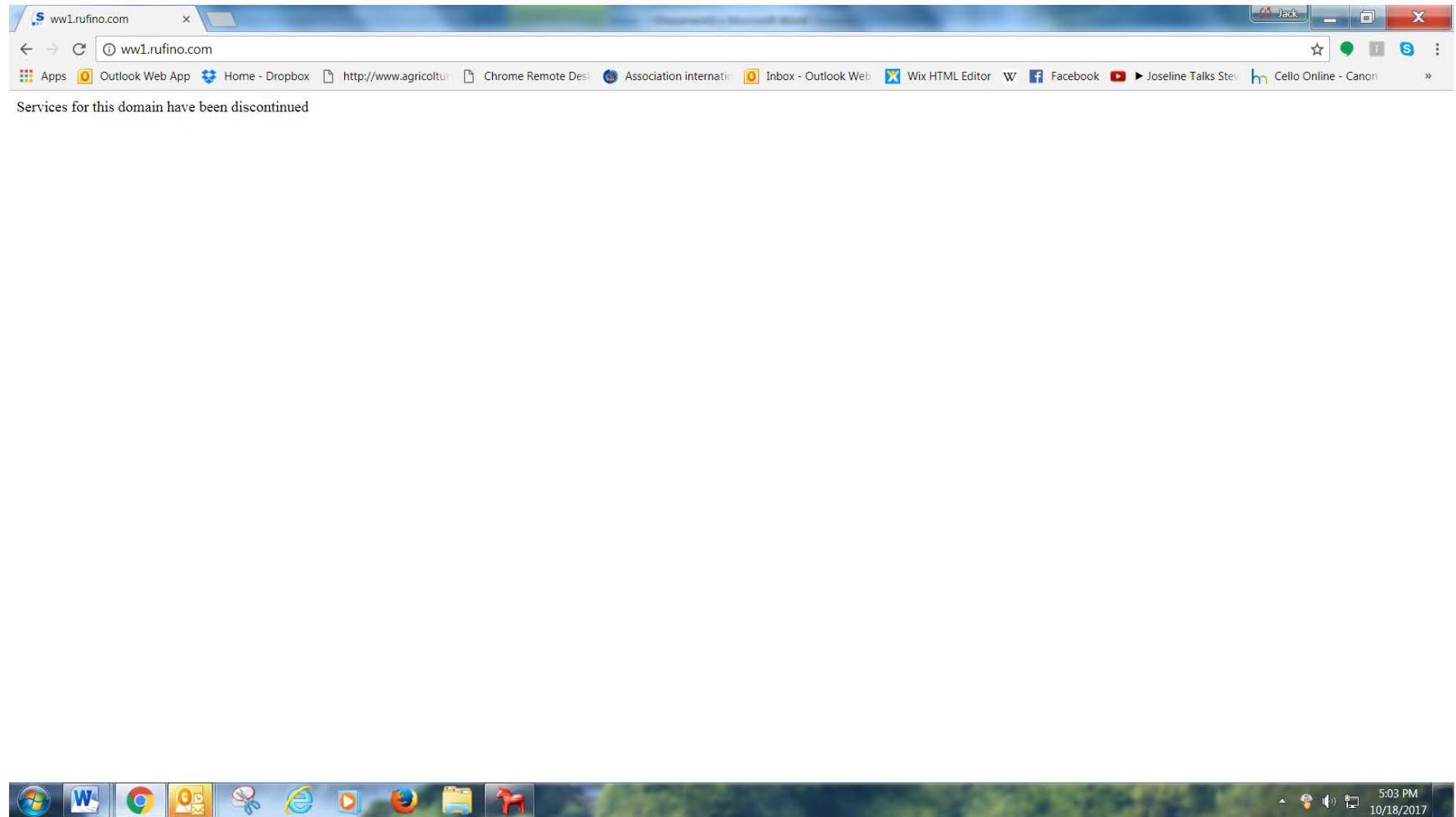
OR

Send an open comment with your offer. This will be forwarded to the other party after being reviewed by Sedo for compliance with the [comment guidelines](#) and will be displayed within 24 hours (up to 48 hours on weekends).

**Option C: Cancel Negotiations**

You can decline the offer and cancel the negotiations.

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S Domain Search x

Sedo.com, LLC [US] | https://sedo.com/search/?keyword=rufino&language=us

Apps Outlook Web App Home - Dropbox http://www.agricolt... Chrome Remote Des... Association internati... Inbox - Outlook Web Wix HTML Editor Facebook Joseline Talks Ste... Cello Online - Canon

sedo Buy. Park. Sell. Domains

Your Keyword: rufino TLD:  Login Register

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FILTER BY:   Include adult domains  Include keyword variations

► KEYWORD PLACEMENT:  Contains  Starts with  Ends with

► LISTING TYPE  PRICE RANGE  DOMAIN LENGTH  SPECIAL CHARACTERS  DOMAINS/WEBSITES  CATEGORIES  SPECIAL INVENTORY  NEW DOMAINS, ADDED IN:

Your Search for "rufino" 11 Results

Sort by: Relevance ↓ Price Name Bids Date created

Domain	Traffic	Bids	Price	
trufino.com		0	499 EUR	<input type="button" value="Buy now"/>
gersonrufino.com		0	2,595 USD	<input type="button" value="Buy now"/>
rufinoslandscape.com		0	1,088 USD	<input type="button" value="Buy now"/>
rufinos.com	3	0		<input type="button" value="Make offer"/>
trufino.de		0	399 EUR	<input type="button" value="Buy now"/>
rufino.net		0		<input type="button" value="Make offer"/>
rufinohopps.top	1	0		<input type="button" value="Make offer"/>
rufino.com.ar		0		<input type="button" value="Make offer"/>

Dave Evanson Domain Sales Expert

rufino.com >

rufino.org >

rufino.co >

rufino.us >

FEATURED DOMAINS

online.investments Negotiation >

payday.loans Negotiation >

online.casino Negotiation >

auto.loans >

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S Domain Brokerage for B... X

Sedo.com, LLC [US] | https://sedo.com/brokerage/acquisition.php?domain=rufino.com&language=us

Apps Outlook Web App Home - Dropbox http://www.agricolt... Association internat... Inbox - Outlook Web Wix HTML Editor W Facebook YouTube Joseline Talks Ste... Cello Online - Canon

WHAT WE OFFER BUY DOMAINS SELL DOMAINS PARK DOMAINS OUR SERVICES Know-How & Support About Sedo

## Domain Brokerage

Domain experts working for you

### Domain Acquisition Service

Automated Review of your Application

Due to possible legal issues associated with this domain, Sedo is not able to offer services for the domain. Please consider selecting an alternative domain.

[Cancel my request](#)

Sedo's Domain Acquisition Service

Are you looking to buy a domain that may not be listed for sale on our marketplace? Registered domains can sometimes be purchased from the existing owner. Hire an experienced Sedo broker to negotiate an acquisition on your behalf.

Your Application Application Review Negotiations Domain Transfer

1. 2. 3. 4.

Your Application

- Submit the brokerage application form, including the domain you would like to acquire, with the maximum price you are willing to spend on your domain

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